

1 KAMALA D. HARRIS
Attorney General of California
2 LINDA K. SCHNEIDER
Supervising Deputy Attorney General
3 State Bar No. 101336
AMANDA DODDS
4 Senior Legal Analyst
110 West "A" Street, Suite 1100
5 San Diego, CA 92101
P.O. Box 85266
6 San Diego, CA 92186-5266
Telephone: (619) 645-2141
7 Facsimile: (619) 645-2061
Attorneys for Complainant

8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-817

13 **KATHLEEN A. KOMAREK**
9 Marciana Street
14 Newport Coast, CA 92657

A C C U S A T I O N

15 **Registered Nurse License No. 496685**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about October 31, 1993, the Board of Registered Nursing issued Registered
24 Nurse License Number 496685 to Kathleen A. Komarek (Respondent). The Registered Nurse
25 License was in full force and effect at all times relevant to the charges brought herein and will
26 expire on August 31, 2013, unless renewed.

27 ///

28 ///

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2750 of the Code provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Section 2764 of the Code provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under section 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within eight years after the expiration.

STATUTORY PROVISIONS

6. Section 482 of the Code states:

Each board under the provisions of this code shall develop criteria to evaluate the rehabilitation of a person when:

(a) Considering the denial of a license by the board under Section 480; or

(b) Considering suspension or revocation of a license under Section 490.

Each board shall take into account all competent evidence of rehabilitation furnished by the applicant or licensee.

7. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.

8. Section 493 of the Code states:

Notwithstanding any other provision of law, in a proceeding conducted by a board within the department pursuant to law to deny an application for a license or to suspend or revoke a license or otherwise take disciplinary action against a person who holds a license, upon the ground that the applicant or the licensee has been convicted of a crime substantially related to the qualifications, functions, and duties of the licensee in question, the record of conviction of the crime shall be conclusive evidence of the fact that the conviction occurred, but only of that fact, and the board

1 may inquire into the circumstances surrounding the commission of the crime in order
2 to fix the degree of discipline or to determine if the conviction is substantially related
to the qualifications, functions, and duties of the licensee in question.

3 As used in this section, "license" includes "certificate," "permit," "authority,"
4 and "registration."

5 9. Section 2761 of the Code states:

6 The board may take disciplinary action against a certified or licensed nurse or
7 deny an application for a certificate or license for any of the following:

8 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

9

10 (f) Conviction of a felony or of any offense substantially related to the
11 qualifications, functions, and duties of a registered nurse, in which event the record of
the conviction shall be conclusive evidence thereof.

12

13 10. Section 2762 of the Code states:

14 In addition to other acts constituting unprofessional conduct within the meaning
15 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person
licensed under this chapter to do any of the following:

16

17 (b) Use any controlled substance as defined in Division 10 (commencing with
18 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous
device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner
19 dangerous or injurious to himself or herself, any other person, or the public or to the
extent that such use impairs his or her ability to conduct with safety to the public the
20 practice authorized by his or her license.

21 (c) Be convicted of a criminal offense involving the prescription, consumption,
or self-administration of any of the substances described in subdivisions (a) and (b) of
22 this section, or the possession of, or falsification of a record pertaining to, the
substances described in subdivision (a) of this section, in which event the record of
23 the conviction is conclusive evidence thereof.

24

25 11. Section 2765 of the Code states:

26 A plea or verdict of guilty or a conviction following a plea of nolo contendere
27 made to a charge substantially related to the qualifications, functions and duties of a
registered nurse is deemed to be a conviction within the meaning of this article. The
28 board may order the license or certificate suspended or revoked, or may decline to
issue a license or certificate, when the time for appeal has elapsed, or the judgment of

conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information or indictment.

REGULATORY PROVISIONS

12. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the qualifications, functions or duties of a registered nurse if to a substantial degree it evidences the present or potential unfitness of a registered nurse to practice in a manner consistent with the public health, safety, or welfare. Such convictions or acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

(d) Any conviction or act subject to an order of registration pursuant to Section 290 of the Penal Code.

13. California Code of Regulations, title 16, section 1445 states:

....

(b) When considering the suspension or revocation of a license on the grounds that a registered nurse has been convicted of a crime, the board, in evaluating the rehabilitation of such person and his/her eligibility for a license will consider the following criteria:

(1) Nature and severity of the act(s) or offense(s).

(2) Total criminal record.

(3) The time that has elapsed since commission of the act(s) or offense(s).

(4) Whether the licensee has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.

(5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.

(6) Evidence, if any, of rehabilitation submitted by the licensee.

///

///

///

1 **COSTS**

2 14. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
3 administrative law judge to direct a licentiate found to have committed a violation or violations of
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
5 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being
6 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
7 included in a stipulated settlement.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(December 14, 2011 Criminal Conviction for**
10 **Alcohol-Related Reckless Driving on May 7, 2011)**

11 15. Respondent has subjected her license to disciplinary action under sections 490 and
12 2761, subdivision (f) of the Code in that she was convicted of a crime that is substantially related
13 to the qualifications, functions, and duties of a registered nurse. The circumstances are as
14 follows:

15 a. On or about December 14, 2011, in a criminal proceeding entitled *People of the*
16 *State of California v. Kathleen Anna Komarek*, in Orange County Superior Court, case number
17 11HM09945, Respondent was convicted on her plea of guilty of violating Vehicle Code section
18 23103, subdivision (a), alcohol-related reckless driving, which was substituted in place of a
19 violation of Vehicle Code section 23152 pursuant to Vehicle Code section 23103.5. The court
20 dismissed the original counts of violating Vehicle Code section 23152, subdivision (a), driving
21 under the influence of alcohol/drugs, and Vehicle Code section 23152, subdivision (b), driving
22 with a blood alcohol concentration (BAC) of .08 percent or more, pursuant to the plea agreement.

23 b. As a result of the conviction, on or about December 14, 2011, Respondent was
24 granted three years informal probation, and ordered to complete a three-month Level 1 First
25 Offender Program and a MADD Victim Impact Panel presentation, pay fees, fines and restitution,
26 and to comply with DUI probation terms.

27 ///

28 ///

1 c. The facts that led to the conviction are that at two o'clock in the morning, on or
2 about May 7, 2011, a patrol officer with the Laguna Beach Police Department observed a vehicle,
3 driven by Respondent, stopped in the middle of the street. As the officer approached the vehicle,
4 a male exited the passenger side and walked away. The officer followed the vehicle and observed
5 that it was weaving within its lane; it then accelerated to a speed in excess of the limit. The
6 officer conducted a traffic stop. Upon making contact with Respondent, he observed that her eyes
7 were bloodshot and watery, and there was a moderate odor of an alcoholic beverage emanating
8 from inside the vehicle. Respondent was asked to exit her vehicle; she had trouble maintain her
9 balance and swayed while attempting to stand still. Respondent was offered the opportunity to
10 submit a breath sample, but she refused. Respondent was arrested for driving under the influence
11 of alcohol and given a choice of a blood or breath test. Respondent attempted to provide a breath
12 sample four times, but she was unable to complete the test at 2:35 a.m. During booking, prior to
13 submitting to a blood test, Respondent asked if she could attempt a breath test again. Respondent
14 provided two breath samples that were analyzed with a BAC of .10 percent at 3:29 a.m.

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Dangerous Use of Alcohol)**

17 16. Respondent has subjected her license to disciplinary action under section 2762,
18 subdivision (b) of the Code for unprofessional conduct in that on or about May 7, 2011, as
19 described in paragraph 15, above, Respondent used alcohol in a manner that was dangerous or
20 injurious to herself, or to the public in that she operated a motor vehicle while impaired.

21 **THIRD CAUSE FOR DISCIPLINE**

22 **(Alcohol-Related Criminal Conviction)**

23 17. Respondent has subjected her license to disciplinary action under section 2762,
24 subdivision (c) of the Code for unprofessional conduct in that on or about December 14, 2011, as
25 described in paragraph 15, above, Respondent was convicted of an alcohol-related criminal
26 offense.

27 ///

28 ///

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

a. On or about October 26, 1992, in a prior disciplinary matter entitled *In the Matter of the Statement of Issues Against Kathleen Komarek*, before the Board of Registered Nursing, in case number 93-69, the Board denied Respondent's application for a registered nurse license under section 480, subdivision (a)(1) of the Code. The basis for the denial was that on or about March 18, 1991, in *City of Shaker Heights v. Kathleen A. Komarek*, Shaker Heights Municipal Court (Ohio), case number 91 TRD 47301B, Respondent was convicted on her plea of no contest to violating Shaker Heights Ordinance 1133.01A3 (operating a motor vehicle with a blood alcohol content over .10), a crime substantially related to the qualifications, functions, and duties of a licensed registered nurse.

b. On or about October 22, 1993, the Board adopted a stipulation that granted Respondent a registered nurse license. The registered nurse license was immediately revoked, the revocation was stayed, and the license was placed on probation for two years on certain terms and conditions.

///

PRAYER


WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 496685, issued to Kathleen A. Komarek;

2. Ordering Kathleen A. Komarek to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;

3. Taking such other and further action as deemed necessary and proper.

DATED: MARCH 26, 2013


for LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

SD2012704609

1 DANIEL E. LUNGREN, Attorney General
2 of the State of California
3 SUSAN FITZGERALD,
4 Deputy Attorney General
5 (BAR # 112278)
6 P. O. Box 85266
7 San Diego, California 94186
8 Telephone: (619) 237-7309

9 Attorneys for Complainant

10 BEFORE THE
11 BOARD OF REGISTERED NURSING
12 DEPARTMENT OF CONSUMER AFFAIRS
13 STATE OF CALIFORNIA

14 In the Matter of the Statement)
15 of Issues Against:)

No. 93-69

16 KATHLEEN KOMAREK)
17 511 Larkspur Avenue)
18 Corona del Mar, CA 92625)

ORDER ADOPTING STIPULATION

19 Applicant/Respondent.)
20)
21)
22)
23)
24)
25)
26)
27)

28 The attached document designated as STIPULATION OF THE
29 PARTIES IN LIEU OF ARGUMENT ON NON-ADOPTION is hereby accepted and
30 adopted by the Board of Registered Nursing and shall constitute the
31 decision of the Board in this matter.

32 This order adopting the Stipulation shall become effec-
33 tive October 22, 1993.

34 DATED: September 21, 1993.

35 /s/ Harriett W. Clark, Esq.

36 President

37 BOARD OF REGISTERED NURSING
38 STATE OF CALIFORNIA

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 SUSAN FITZGERALD,
Deputy Attorney General
3 (BAR # 112278)
P.O.Box 85266
4 San Diego, California 92186
Telephone: (619) 237-7309

5 Attorneys for Complainant

6 BEFORE THE BOARD OF REGISTERED NURSING

7 DEPARTMENT OF CONSUMER AFFAIRS

8 STATE OF CALIFORNIA

9 In the Matter of the Statement)	Case No.93-69
10 of Issues Against:)	
11 KATHLEEN KOMAREK, RN)	STIPULATION OF THE
511 Larkspur Ave.)	PARTIES IN LIEU OF
12 Corona del Mar, CA 92625)	ARGUMENT ON NON-
13 Applicant/Respondent.)	ADOPTION

14 IT IS HEREBY STIPULATED AND AGREED by and between the
15 parties that, if it is acceptable to the Board, the following
16 modifications should be made to the proposed decision of the
17 administrative law judge in the above entitled case and that,
18 thereafter, said modified decision should issue as the decision
19 after non-adoption of the Board in this matter:

20 Applicant/Respondent Kathleen Komarek shall be granted a
21 license to practice as a registered nurse. However, said license
22 is simultaneously revoked, with that revocation stayed, and the
23 license placed on probation on all of the terms and conditions in
24 the proposed decision plus the following additional terms and
25 conditions:

26 \\\
27 \\\

1 A. Respondent, at her own expense, within 45 days of the
2 effective date of this decision, shall have a licensed physician
3 submit, in a format acceptable to the Board, an assessment of the
4 respondent's physical condition and capability to perform the
5 duties of a professional registered nurse. If medically
6 determined, a recommended treatment program will be instituted
7 and followed by the respondent with the physician providing
8 written reports to the Board on forms provided by the Board.

9 B. Respondent shall completely abstain from the
10 possession, injection or consumption by any route of all
11 psychotropic (mod altering) drugs, including alcohol, except when
12 the same are lawfully prescribed by a licensed physician or
13 dentist as part of documented medical treatment. Respondent
14 shall have sent to the Board, in writing within fourteen (14)
15 days, by the prescribing physician or dentist, a report
16 identifying the medication, dosage, the date the medication was
17 prescribed, the respondent's prognosis, and the date the
18 medication will no longer be required.

19 C. Respondent, at her own expense, shall participate in a
20 random, biological fluid testing or a drug screening program
21 which the Board approves. The length of time and frequency will
22 be subject to approval by the Board. The respondent is
23 responsible for ensuring that reports are submitted directly by
24 the testing agency to the Board, as directed. Any confirmed
25 positive finding shall be reported immediately to the Board by
26 the program and the respondent will be considered in violation of
27 probation.

1 In addition, respondent, at any time during the period
2 of probation, shall fully cooperate with the Board or any of its
3 representatives, and shall, when requested, submit to such tests
4 and samples as the Board or its representatives may required for
5 the detection of alcohol, narcotics, hypnotics, dangerous drugs,
6 or other controlled substances.

7 D. Respondent shall, within 45 days of the effective date
8 of this decision, have a mental health examination including
9 psychological testing as appropriate to determine her capability
10 to perform the duties of a registered nurse. The examination
11 will be performed by a psychiatrist, psychologist or other
12 licensed mental health practitioner approved by the Board. The
13 examining mental health practitioner will submit a written report
14 of that assessment and recommendations to the Board. All costs
15 are the responsibility of the respondent. Recommendations for
16 treatment, therapy or counseling made as a result of the mental
17 health examination will be instituted and followed by the
18 respondent.

19 E. Respondent, at her own expense, shall participate in an
20 on-going counseling program until such time as the Board releases
21 her from this requirement and only upon the recommendation of the

22 \\

23 \\

24 \\

25 \\


26 \\

27 \\

1 counselor. Written progress reports from the counselor will be
2 required at various intervals.

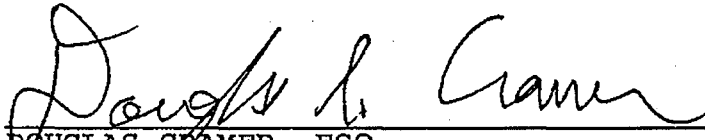
3
4 I CONCUR IN THIS STIPULATION.

5 Dated: 7/7, 1993

6
7 
8 SUSAN FITZGERALD
9 Deputy Attorney General
Attorney for Complainant

10 I CONCUR IN THIS STIPULATION.

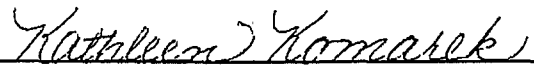
11 Dated: 6/28, 1993

12
13 
14 DOUGLAS CRAMER, ESQ.
15 Attorney for Respondent

16
17 ACKNOWLEDGEMENT

18 I, Kathleen Komarek, have read the above stipulation
19 and counseled with my attorney about it. I enter into the
20 stipulation freely, voluntarily, intelligently, and with full
21 knowledge of its force and effect.

22 Dated: 7/6, 1993

23
24 
25 KATHLEEN KOMAREK
26 Respondent
27

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement)	
of Issues Against:)	Case No. 93-69
)	
KATHLEEN A. KOMAREK,)	OAH No. L-58735
)	
Applicant/Respondent.)	

PROPOSED DECISION

This matter came on regularly for hearing before David B. Rosenman, Administrative Law Judge of the Office of Administrative Hearings, at Santa Ana, California, on November 23, 1992. The Board of Registered Nursing ("Board") was represented by Susan Fitzgerald, Deputy Attorney General. Respondent, Kathleen A. Komarek, appeared personally and was represented by Douglas Cramer, attorney at law.

Oral and documentary evidence was received and the matter was submitted.

FINDINGS OF FACT

The Administrative Law Judge finds the following facts:

1. The Statement of Issues was filed by Catherine M. Puri, R.N., Ph.D., in her official capacity as Executive Officer of the Board.

2. On April 22, 1992, respondent submitted her application for licensure as a registered nurse. The Board denied the application, and respondent requested a hearing.

3. On March 18, 1991, in the Shaker Heights Municipal Court, Shaker Heights, Ohio, in case no. 91 TRD 47301B, respondent was convicted on her plea of no contest of violating City of Shaker Heights Ordinance 1133.01A3 (operating a motor vehicle with a blood alcohol content over .10), a misdemeanor.

On June 18, 1991, respondent was placed on active probation for 12 months on terms and conditions, including that respondent spend 3 days in an alcohol assessment and education program, pay fines and assessments, attend Alcoholics Anonymous meetings 2 times per month, and have restrictions placed on her driver's license.

4. The conviction is substantially related to the qualifications, functions and duties of a Board licensee under

Business & Professions Code ("B & P Code") section 2761(f) and California Code of Regulations ("Regulation"), Title 16, section 1444, in that, under B & P Code section 2762, it is unprofessional conduct for a licensee to use alcohol to the extent that it is dangerous or injurious to herself.

5. The facts and circumstances leading up to respondent's conviction are that, on February 9, 1991, respondent had worked a late shift and met friends for a late dinner at about 1:00 p.m., during which she drank several glasses of wine. She left the restaurant and continued to stay up drinking wine with a friend until the friend left and respondent went to bed at about 6:00 a.m. Respondent awoke at 8:00 a.m. and, while driving to church, blacked out and hit a tree, resulting in respondent's hospital treatment and observation until she was discharged the next day.

6. Respondent fully accepts responsibility for her earlier action in driving under the influence and demonstrates substantial rehabilitation. Respondent successfully completed her probation and has worked hard to eliminate the use of alcohol from her life, as well as to reduce the stress factors which were present and contributed to her state of mind at the time of her arrest.

7. Respondent is sincere in her desire to practice as a registered nurse. More specifically, respondent established that, after expressing passing interest in various other possible careers, she has devoted herself to pursuing her nursing license and wishes to pursue further educational and vocational opportunities in the nursing field.

After completing her formal nursing education, respondent worked as a licensed nurse from July, 1987 to June, 1992 in the acute care adolescent psychiatric unit at MetroHealth Saint Luke's Medical Center in Cleveland, Ohio. She found the work challenging and rewarding, and was apparently successful at her job.

Respondent moved to California and has established a support network which not only includes her family in Ohio but also her fiancé and many friends in California. She has worked for a catering company since September, 1992.

8. Although not set forth in the Statement of Issues as a basis for the Board's denial of her license application, evidence was introduced relating to respondent's hospitalization for 5 days in April, 1992 to assist her in reducing and eliminating her use of prescribed medications for various ailments, including anxiety, phobias and heart palpitations. Respondent ceased her therapy in June, 1992, when she moved to California.

9. Although respondent demonstrated mitigating circumstances and substantial rehabilitation, the nature and recency of the acts leading to her conviction and the recency of her hospitalization lead to the conclusion that she is not entitled to an unconditional license at this time. However, it would be consistent with the public health, safety and welfare to grant an appropriately conditioned license to respondent.

DETERMINATION OF ISSUES

By reason of the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Cause does not exist to deny the application of respondent, Kathleen A. Komarek, for a license pursuant to Business & Professions Code sections 480(a)(1) and (3), and 2736(f), for conviction of a crime, as set forth in Findings 2, 3, 4 and 5, and it would be consistent with the public health, safety and welfare to issue respondent a conditional license, for the reasons set forth in Findings 6, 7, 8 and 9.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The application of respondent, Kathleen A. Komarek, for licensure as a registered nurse is granted under the following conditions:

1. Respondent shall obey all federal, state and local laws, and all rules and regulations of the Board of Registered Nursing governing the practice of nursing in California. A full written account of any violation of law shall be reported by respondent to the Board within seventy-two (72) hours of occurrence.

2. Respondent shall fully comply with the terms and conditions of the probation program established by the Board and cooperate with representatives of the Board in its monitoring and investigation of the respondent's compliance with the program.

3. Respondent, during the period of probation, shall report in person at interviews/meetings as reasonably directed by the Board or its designated representatives.

4. Periods of residency or practice outside of California will not apply to the reduction of this probationary period. Respondent must provide written notice to the Board within 15 days of any change in residency or practice outside the state.

5. Respondent, during the period of probation, shall submit such written reports/declarations and verification of actions under penalty of perjury as are required by the Board. These declarations shall contain statements relative to respondent's compliance with all terms and conditions of probation.

6. Respondent, during the period of probation, shall engage in the practice of professional nursing in California for a minimum of 24 hours per week (or as determined by the Board) for 6 consecutive months.

7. The Board shall be informed of and approve of each agency for which respondent provides nursing services prior to respondent's commencement of work. The respondent shall inform her employer of the reason for and terms and conditions of probation and shall provide a copy of this Decision to her employer and immediate supervisor. The employer shall submit performance evaluations and other reports as requested by the Board.

8. The Board shall be informed of and approve of the level of supervision provided to the respondent while she is functioning as a registered nurse. Respondent shall function only under the direct supervision of a registered nurse in good standing (no current discipline) with the Board.

9. Respondent may not work for a nurse registry; temporary nurse agency; home care agency; in-house nursing pool; as a nursing supervisor; as a faculty member in an approved school of nursing; or as an instructor in a Board approved nursing continuing education course. Respondent must work only on regularly assigned and identified worksites.

10. Respondent, at her expense, shall successfully complete, or shall have successfully completed a treatment/rehabilitation program which the Board approves. Board approval shall not be unreasonably withheld. Reports shall be submitted by the program on forms provided by the Board. If respondent has not completed a treatment/rehabilitation program prior to commencement of probation, the respondent, within a reasonable period of time as determined by the Board (but not exceeding 60 days of the effective date of this Decision) shall be enrolled in such a program.

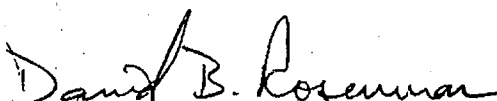
In addition, respondent must attend support groups (e.g. Narcotics Anonymous, Alcoholics Anonymous, nurse-support groups, etc.) as deemed reasonably necessary under the circumstances and as directed by the Board, but not to exceed two times per week.

11. Respondent shall completely abstain from the personal use of all psychotropic drugs, including alcohol, in any form except when the same are lawfully prescribed as part of documented medical treatment.

12. If during the period of probation, an accusation has been filed against respondent's license or the Attorney General's Office has been requested to prepare an accusation against respondent's license, the probation period shall automatically be extended and shall not expire until the accusation has been acted upon by the Board.

13. Upon successful completion of the probationary period, which shall last for two (2) years from the effective date of this Decision, the respondent shall be entitled to the issuance of an unconditional license from the Board.

DATED: January 13, 1993.



DAVID B. ROSENMAN
Administrative Law Judge
Office of Administrative Hearings

DBR/dr

1 DANIEL E. LUNGREN, Attorney General
of the State of California
2 SUSAN FITZGERALD
Deputy Attorney General
3 110 West A Street, Suite 700
P.O. Box 85266
4 San Diego, CA 92186-5266
Telephone: (619) 237-7309
5 Attorneys for Complainant
6
7

8 BEFORE THE
BOARD OF REGISTERED NURSING
9 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
10

11
12 In the Matter of the Statement
of Issues Against:

13 KATHLEEN A. KOMAREK
14 511 Larkspur Avenue
Corona Del Mar, CA 92625
15

16 Applicant/Respondent
17

NO. 93-69

STATEMENT OF ISSUES

18 Catherine M. Puri, R.N., Ph.D., as causes for denial of
19 respondent's application for licensure as a registered nurse,
20 alleges:
21

22 1. Complainant Catherine M. Puri, R.N., Ph.D., makes
23 and files this statement of issues in her official capacity as
24 Executive Officer, Board of Registered Nursing, Department of
25 Consumer Affairs, State of California.
26 / / /
27 / / /

1 2. Under Business and Professions Code section 2736,
2 the Board of Registered Nursing may deny a license as a
3 registered nurse when it finds that the applicant has committed
4 any acts which, if committed by a licensed registered nurse,
5 would be grounds for disciplinary action.

6 Under Business and Professions Code section 480, the
7 Board may deny a license when it finds that the applicant has
8 been convicted of a crime, or has done any act which, if done by
9 a licentiate, would be grounds for suspension or revocation of a
10 license.

11
12 3. On or about April 22, 1992, Kathleen Anna Komarek
13 submitted an application for licensure by endorsement as a
14 registered nurse. The truth and accuracy of the contents of the
15 application were certified under penalty of perjury by Kathleen
16 A. Komarek on March 14, 1992.

17
18 4. Respondent's application is subject to denial under
19 Business and Professions Code section 480(a)(1) in that on March
20 18, 1991, she was found guilty by the court on her plea of no
21 contest to violating City of Shaker Heights Ordinance 1133.01A3,
22 (operating a motor vehicle with blood alcohol content over .10),
23 in the case entitled City of Shaker Heights v. Kathleen A.
24 Komarek, Shaker Heights Municipal Court, Shaker Heights, Ohio,
25 Case No. 91 TRD 47301B, a crime substantially related to the
26 qualifications, functions, and duties of a licensed registered
27 nurse.

1 5. The circumstances of said crime were that on or
2 about February 9, 1991, respondent while driving her own car, was
3 involved in a car accident wherein she struck a curb, then a
4 tree, and overturned her vehicle. Respondent was cited by Shaker
5 Heights law enforcement officers in three complaints, Nos. 91 TRD
6 47301A (struck curb, and tree, came to rest on vehicle roof) 91
7 TRD 47301B (operate a motor vehicle with blood alcohol content
8 over .10), and 91 TRD 00559 (operate a motor vehicle while under
9 the influence of alcohol/drugs).

10
11 6. Grounds exist to deny applicant's application under
12 Business and Professions Code section 480(a)(3) in that she
13 committed an act, as set forth in Paragraph 4 above, which if
14 done by a licentiate of the profession, would be grounds for
15 disciplinary action under section 2751(f) of that code.

16
17 WHEREFORE, complainant prays that a hearing be had and
18 if the allegations set forth herein, or any of them, are found to
19 be true, that the application of Kathleen A. Komarek for
20 licensure as a registered nurse be denied.

21 DATED: Oct. 26, 1992

22
23
24 *Susan Fitzgerald for*
25 CATHERINE M. PURI, R.N., Ph.D.
26 Executive Officer
27 Board of Registered Nursing
 Department of Consumer Affairs
 State of California

03579110
SD92AD0657
10-1-92 (JO)

Complainant